# IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 365 OF 2007

GOAN REAL ESTATE AND CONSTRUCTION LTD. AND 2 ORS., ... Petitioners

Versus

STATE OF GOA THROUGH CHIEF SECRETARY AND 7 ORS., ... Respondents

Mr. Iqbal M. Chagla, Senior Advocate with Mr.Parimol Sharoff, Mr. Riyaz Chagla, Mr. Mahesh Sonak and Mr. P. S. Rao, Advocates for the petitioners.

Mr. S. S. Kantak, Advocate General with Mrs. Leena Dharwadkar, Addl. Govt. Advocate for the respondents No.1, 2, 3 and 5.

Mr. C. A. Fereira, Asst. Solicitor General for the respondent No. 6.

Coram:- R. S. MOHITE &
N. A. BRITTO, JJ.

Date:- 24th July, 2007

P.C.

This is a petition filed by the petitioners Goan Real Estate and Construction Ltd., and two others, impugning the order dated 22.12.2006 passed by the Addl. Collector, North Goa District, Panaji which is in the nature of a stop work notice pending inquiry, in respect of the petitioners' development work on a complaint of CRZ violations made by a NGO and also on the basis of a request made to him by the Goa Coastal Zone Management Authority ('GCZMA' for short) vide their letter dated 22.12.2006. Another order dated 23.5.2007 also passed by the Addl. Collector, North Goa District, Panaji is also impugned in this petition to the extent that it does not discharge the earlier order of the Addl.Collector dated 22.12.2006 in so far as construction between 50 metres and 100 metres is concerned. The last challenge in this petition is to an order dated 22.12.2006 passed by the GCZMA which was one of the basis of

the impugned orders passed by the Addl. Collector, North Goa District, Panaji mentioned hereinabove.

2. The record indicates that in this matter, by a letter dated 24.1.07 issued by the Additional Director, Ministry of Environment and Forests, Government of India to the petitioner with a copy to the Director/Joint Secretary, Department of Science, Technology and Environment, Government of Goa and by a further clarification vide a letter dated 13.2.2007 issued by the Additional Director to the petitioners with a copy similarly endorsed to the Director/Joint Secretary, Department of Science, Technology and Environment, Government of Goa, the Environment Ministry has put its stand in writing and has clarified that the petitioners' project, the plan of which was duly approved by the Chief Town Planner in the year 1995 with the first construction permission being given by the Village Panchayat in the year 1995 and continued till 2008, would be construed to be an on going project. We also find on record a further letter which appears to be in the nature of a direction issued by the Member Secretary, National Coastal Zone Management Authority and Additional Director, to the Member Secretary, Department of Science, Technology and Environment, Government of Goa stating that it is not clear as to why the clarification issued by the Ministry of Environment and Forests vide letter even dated 13.2.07 has not been taken into consideration while deciding the above matter with a further direction to get the matter examined by the GCZMA keeping in view the clarification issued by the Environment Ministry vide its letter dated 13.2.07.

3. It appears that in consequence, the GCZMA has now issued a letter dated 17.7.07 addressed to the Additional Director & Member Secretary, NCZMA at the Ministry of Environment & Forests, New Delhi, raising several contentions and have communicated their decision that the project cannot be construed to be an on going project.

4. At the hearing of this matter, the Asst. Solicitor General, appearing for respondent No.6, makes a statement that from the records it is clear that the project has been treated by the Central Government, acting through the Ministry of Environment, as an on going project. The Advocate General who appears for the GCZMA and for the State of Goa states that in view of this statement of the Asst. Solicitor General of India and the stand of the Central Government, the State of Goa would like to withdraw the impugned orders of the Additional Collector dated 22.12.2006 and also his Order dated 23.5.2007 to the extent it imposes an embargo on effecting of construction between 50 metres to 100 metres. The learned Advocate General states that the withdrawal letter will be issued within a period of one week from today.

5. The learned Advocate General states that in view of the withdrawal of the Orders passed by the Addl. Collector, North Goa District, Panaji, the GCZMA will not press its representation dated 17.7.2007.

6. All the aforesaid statements, referred to in paras 4 and 5 are accepted.

7. In view of the acceptance of all these statements, the petitioner does not press this petition. It is not necessary to go into the merits of this matter as the dispute between the GCZMA and the Central Government who basically represent the same interest, are amicably resolved and, therefore, subject to the acceptance of the statements, the petition stands disposed off.

R. S. MOHITE, J.

N. A. BRITTO, J.

ssm.